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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT - 4 2004

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.202(b)) MB Docket No. 04-319
Table of Allotments) RM No. 10984
FM Broadcast Stations)
(Coal Run, Kentucky and)
Clinchco, Virginia))

To: Chief, Audio Division

COMMENTS

East Kentucky Broadcasting Corp., the licensee of WPKE-FM, Coal Run, Kentucky, by its attorney, pursuant to the Notice of Proposed Rule Making, DA 04-2501, released August 12, 2004, hereby submits its Comments in support of the substitution of Channel 221C3 for Channel 276A at Coal Run and the modification of station WPKE-FM's license to specify operation on Channel 221C3; and the substitution of Channel 276A for Channel 221A at Clinchco, Virginia and the modification of station WDIC-FM's license to specify operation on Channel 276A.¹ In support thereof, the following is submitted:

1. East Kentucky Broadcasting Corp. incorporates by reference the information in its Petition for Rule Making filed February 19, 2004. In particular, East Kentucky Broadcasting Corp. incorporates the preclusion study and technical study submitted as exhibits to the Petition for Rule Making in support of the treatment of this proposal as an incompatible channel swap. The preclusion study shows that the channel substitution for the upgrade and the accommodating

¹ The Notice of Proposed Rule Making specified October 4, 2004 as the deadline date for filing Comments. Accordingly, these Comments are timely filed.

substitution are each mutually exclusive and are uniquely available. In other words, there are no alternative channels of the respective classes that are fully spaced from either station's transmitter site.

2. As requested in the Notice of Proposed Rule Making, East Kentucky Broadcasting Corp. is providing a preclusion study demonstrating the impact of allotting Channel 221C3 to Coal Run on the availability of all classes of non-commercial educational allotments on Channels 218, 219 and 220, along with maps showing the areas precluded for each of the classes or relevant channels.² Attached to these Comments is a Technical Report prepared by Charles M. Anderson & Associates. The Technical Report shows that there is no preclusion impact from the assignment of Channel 221C3 to Coal Run, Kentucky as a result of the proposed incompatible channel swap. In each case, the preclusion arc from the Channel 221C3 allotment to Coal Run is contained well within the existing preclusion of licensed commercial and non-commercial stations. As noted in the Technical Report, the preclusion study was performed in accordance with the standards set forth in Myrtle Beach, South Carolina, 3 FCC Rcd 7269 (1988); Bisbee and Green Valley, Arizona, 4 FCC Rcd 8751 (1989); and Broken Arrow, Oklahoma and Coffeyville, Kansas, 2 FCC Rcd 6687 (1987).

3. East Kentucky Broadcasting Corp. hereby certifies it has a present intention to apply for Channel 221C3 when allotted, and when authorized, to promptly construct the modified facility and commence operations on Channel 221C3. Further, East Kentucky Broadcasting Corp. agrees to reimburse the licensee of WDIC-FM for its reasonable and prudent out-of-pocket


² As the communities at issue are on the border of Zone I and Zone II, in addition to preclusion studies for Classes A, C3, C2, C1, C0 and C, as requested in the Notice of Proposed Rule Making, East Kentucky Broadcasting Corp. is also submitting preclusion studies for Classes B1 and B so that the Commission has a complete factual record before it for consideration in this proceeding.

expenses incurred in effectuating the channel substitution, in accord with Circleville, Ohio, 8 FCC 2d 159 (1967).

WHEREFORE, the reasons above, the Commission should substitute Channel 221C3 for Channel 276A at Coal Run and modify the license of WPKE-FM to operate on Channel 221C3; and substitute Channel 276A for Channel 221A at Clinchco, Virginia and modify the license of WDIC-FM to specify operation on Channel 276A.

Respectfully submitted,

EAST KENTUCKY BROADCASTING CORP.

By: 
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October 4, 2004

Charles M. Anderson and Associates

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TECHNICAL REPORT

This technical report has been developed in support of comments by East Kentucky Broadcasting Corporation in response to the NPRM in MM Docket No. 04-319. This report also responds to the Commission's request that a non-commercial FM preclusion impact study for the proposed 221C3 Coal Run allocation on channels 218, 219 and 220 be provided.

I. Non-commercial Preclusion Study Methodology:

This proposed 221C3 allocation lies within the Channel 6 impact radius for station WVPB in Beckley, WV set forth in Section 73.525(a) -- channel 220 (154km), channel 219 (159km) and channel 218 (166 km). The analysis was performed using the methodology prescribed by the Commission in Myrtle Beach (DA 88-1934), Bisbee and Grand Valley, AZ (DA 89-1585) and Broken Arrow et al (DA 87-1539). Preclusion studies are provided for channels 218, 219 and 220 classes A, C3, B1, B, C2, C1, C0 and C. Class B1 and B studies were performed due to the proximity to the West Virginia border. Maximum class facilities were assumed for noncommercial "precluded" stations on 218 to 220. Actual protected and interfering contours were calculated using V-Soft's Contour program and a 30 second terrain database for licensed noncommercial stations based on their ERP and average HAAT. The preclusion arc for each existing non-commercial stations was then determined based on the largest sum of the protected and interfering contours for the licensed and "precluded" stations. For stations on 221,222 and 223, the actual Section 73.207 separations were used. A table of

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these preclusion arcs is provided for each class of station in the attached exhibits.

The Coal Run 221C3 preclusion arcs were based on the proposed allocation reference coordinates of N 37-23-57 W 82-23-42 . All allocation exhibits were prepared using V-Soft's PROBE III and Contour programs and the 30 second NGDC terrain database.

III. Conclusion:

It is evident from the attached preclusion plots for all classes of channels 218, 219 and 220 that there is no new preclusion impact from the upgrade of station WPKE-FM, Coal Run, KY to channel 221C3 through an incompatible swap. In all cases the preclusion arc from the Coal Run 221C3 allocation is contained well within the existing preclusion of licensed commercial and noncommercial stations. Therefore, it is concluded that the proposal meets the standards set forth in Myrtle Beach and similar cases.



Charles M. Anderson 09-27-2004
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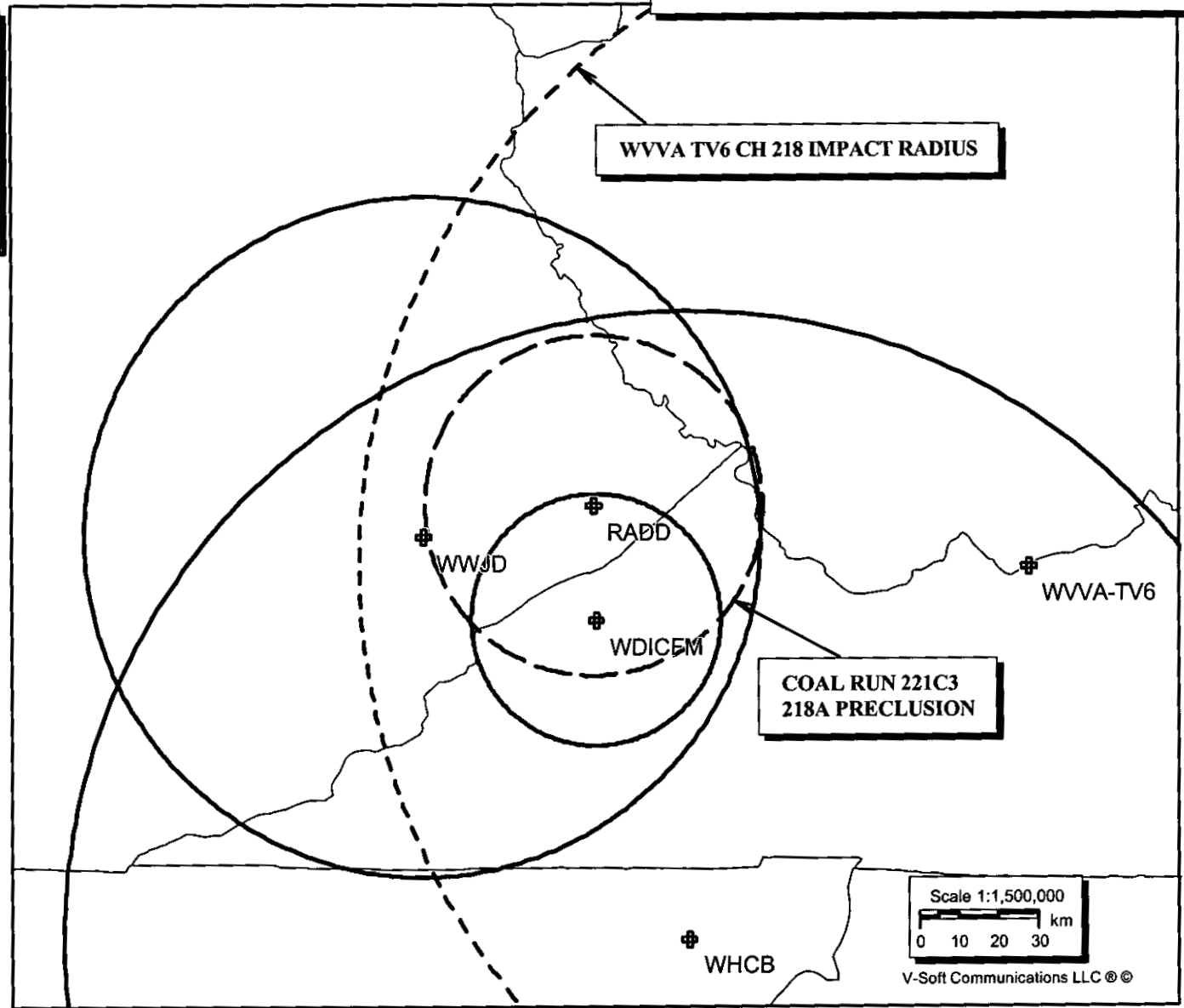
CHANNEL 218A
PRECLUSION STUDY

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

WVVA TV6 CH 218 IMPACT RADIUS

COAL RUN 221C3
218A PRECLUSION



Scale 1:1,500,000
0 10 20 30 km

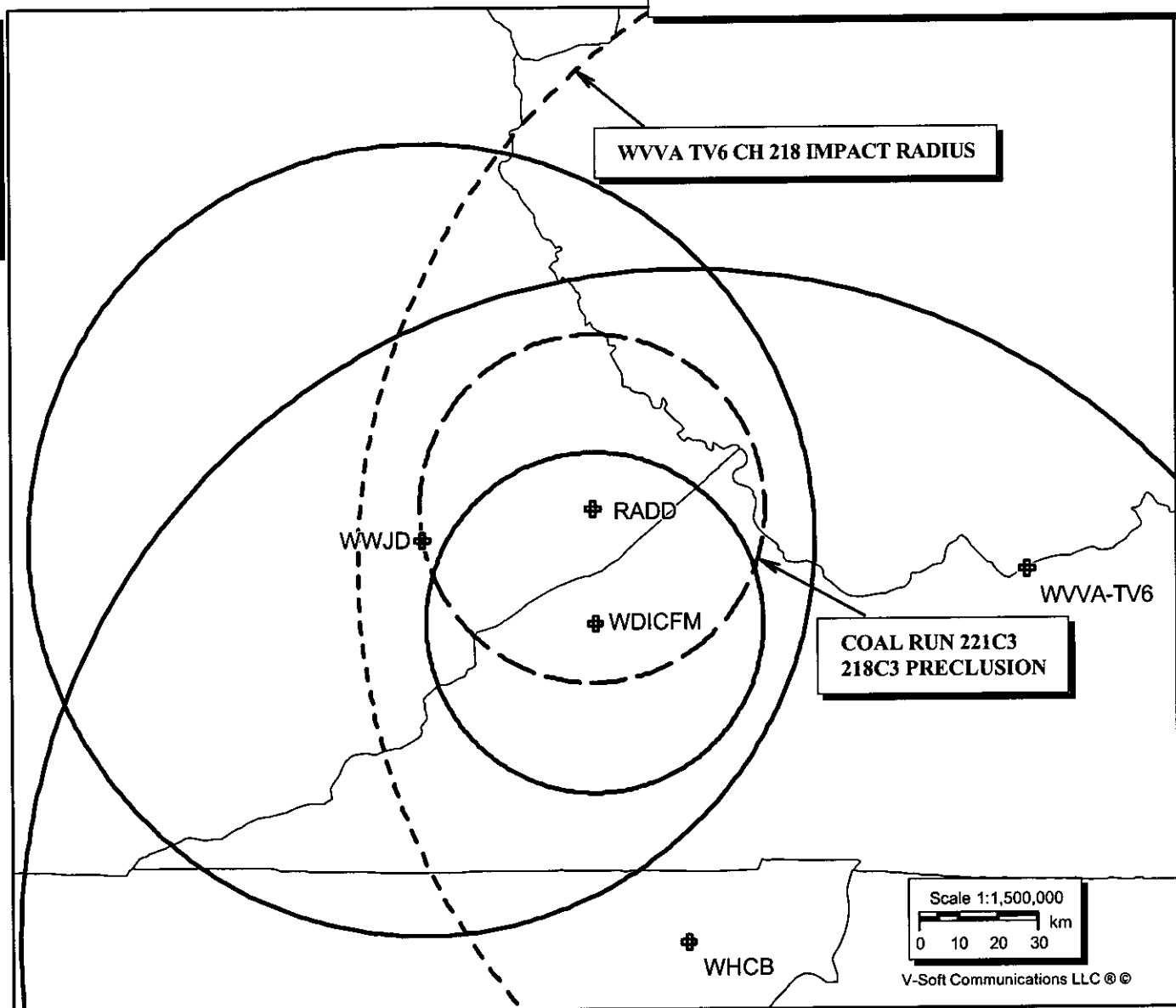
V-Soft Communications LLC ©

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**CHANNEL 218C3
PRECLUSION STUDY**

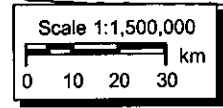
Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz



WWVA TV6 CH 218 IMPACT RADIUS

**COAL RUN 221C3
218C3 PRECLUSION**



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**CHANNEL 218B1
PRECLUSION STUDY**

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

WVVA TV6 CH 218 IMPACT RADIUS

WVPB

WWJD

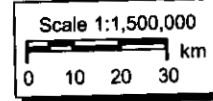
RADD

WDICFM

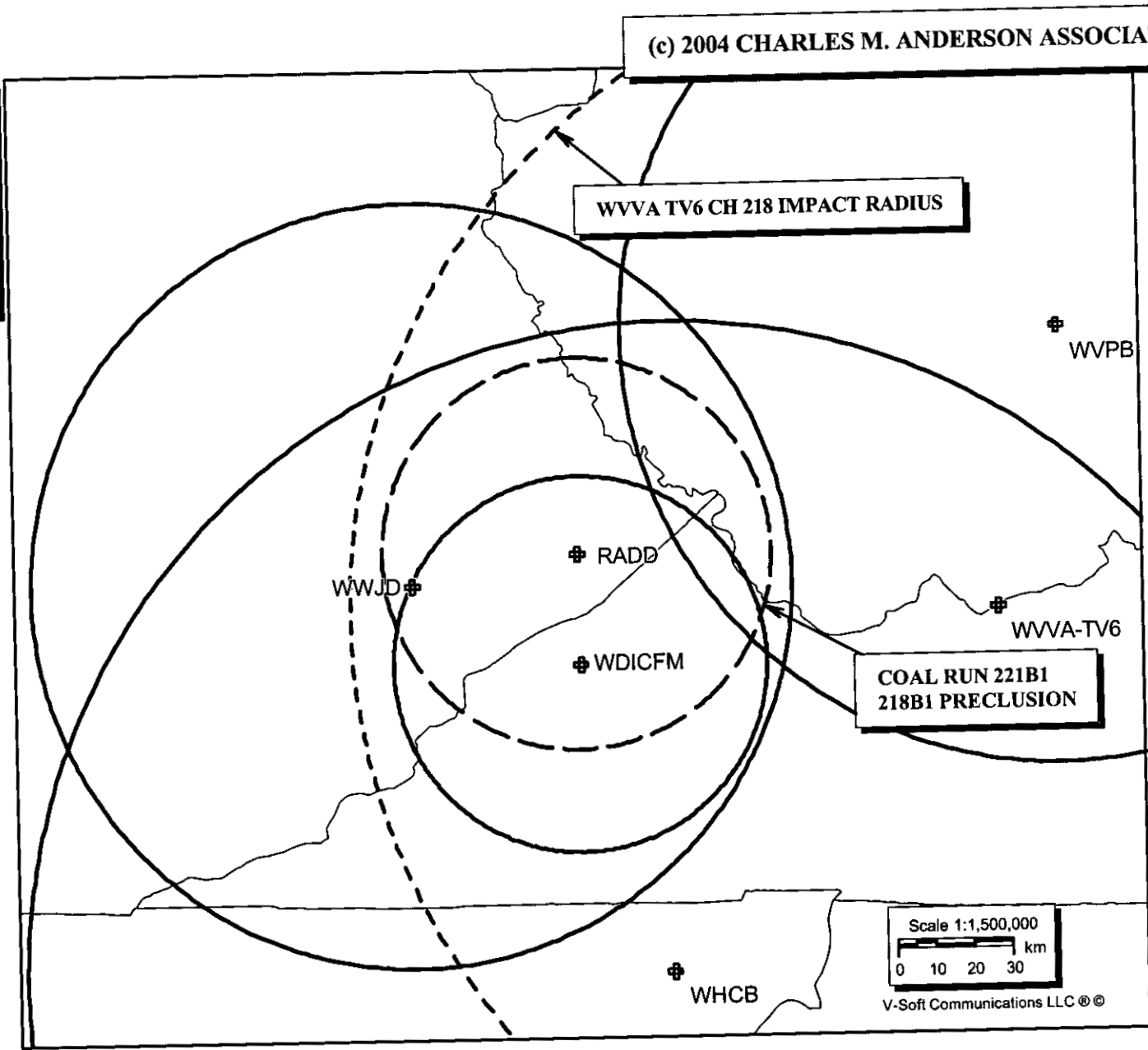
WVVA-TV6

**COAL RUN 221B1
218B1 PRECLUSION**

WHCB



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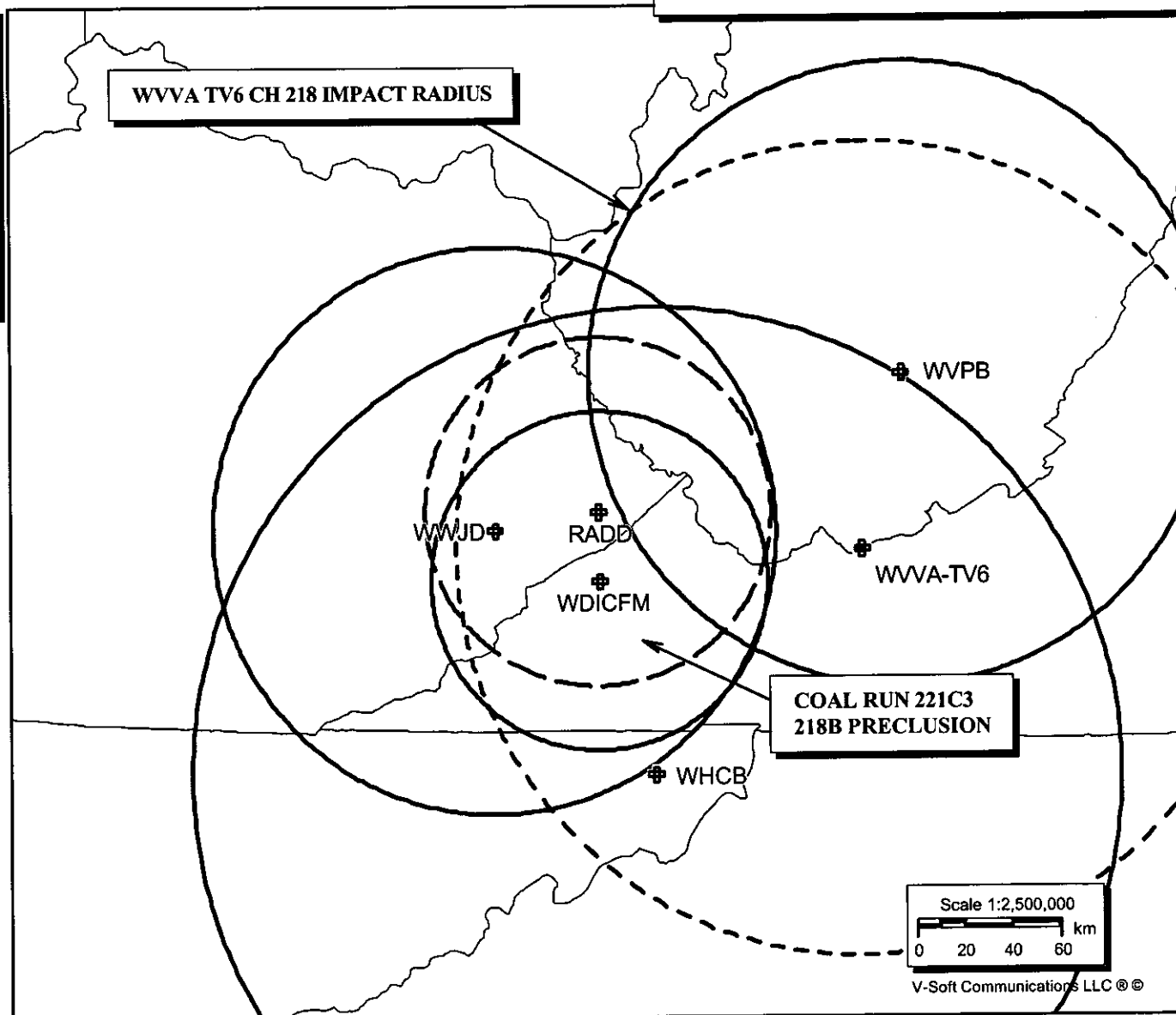
**CHANNEL 218B
PRECLUSION STUDY**

NO NEW
PRECLUSION

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

WVVA TV6 CH 218 IMPACT RADIUS



**COAL RUN 221C3
218B PRECLUSION**

Scale 1:2,500,000

0 20 40 60 km

V-Soft Communications LLC ©

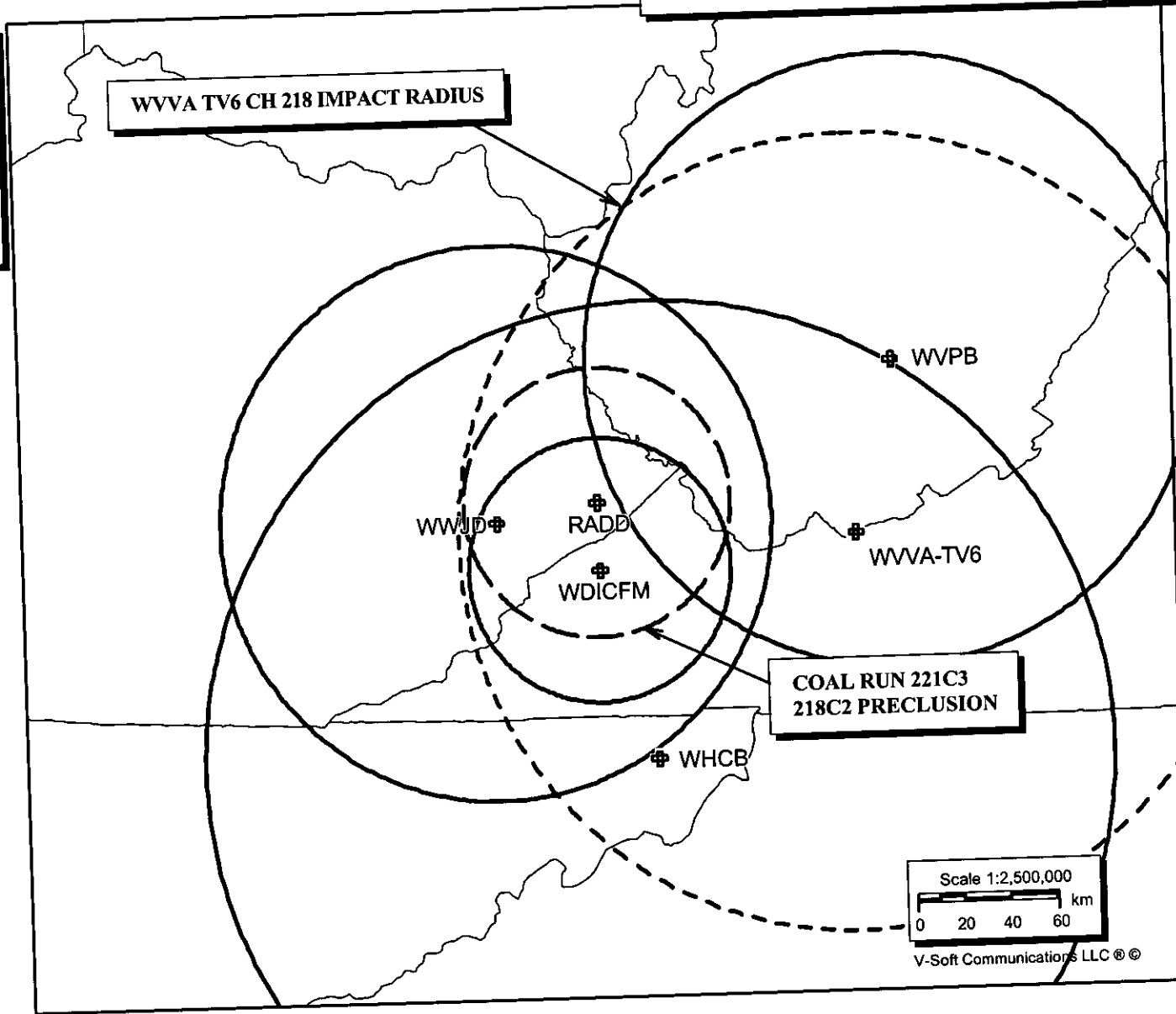
(c) 2004 CHARLES M. ANDERSON ASSOCIATES

**CHANNEL 218C2
PRECLUSION STUDY**

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

WVVA TV6 CH 218 IMPACT RADIUS



**COAL RUN 221C3
218C2 PRECLUSION**

Scale 1:2,500,000

0 20 40 60 km

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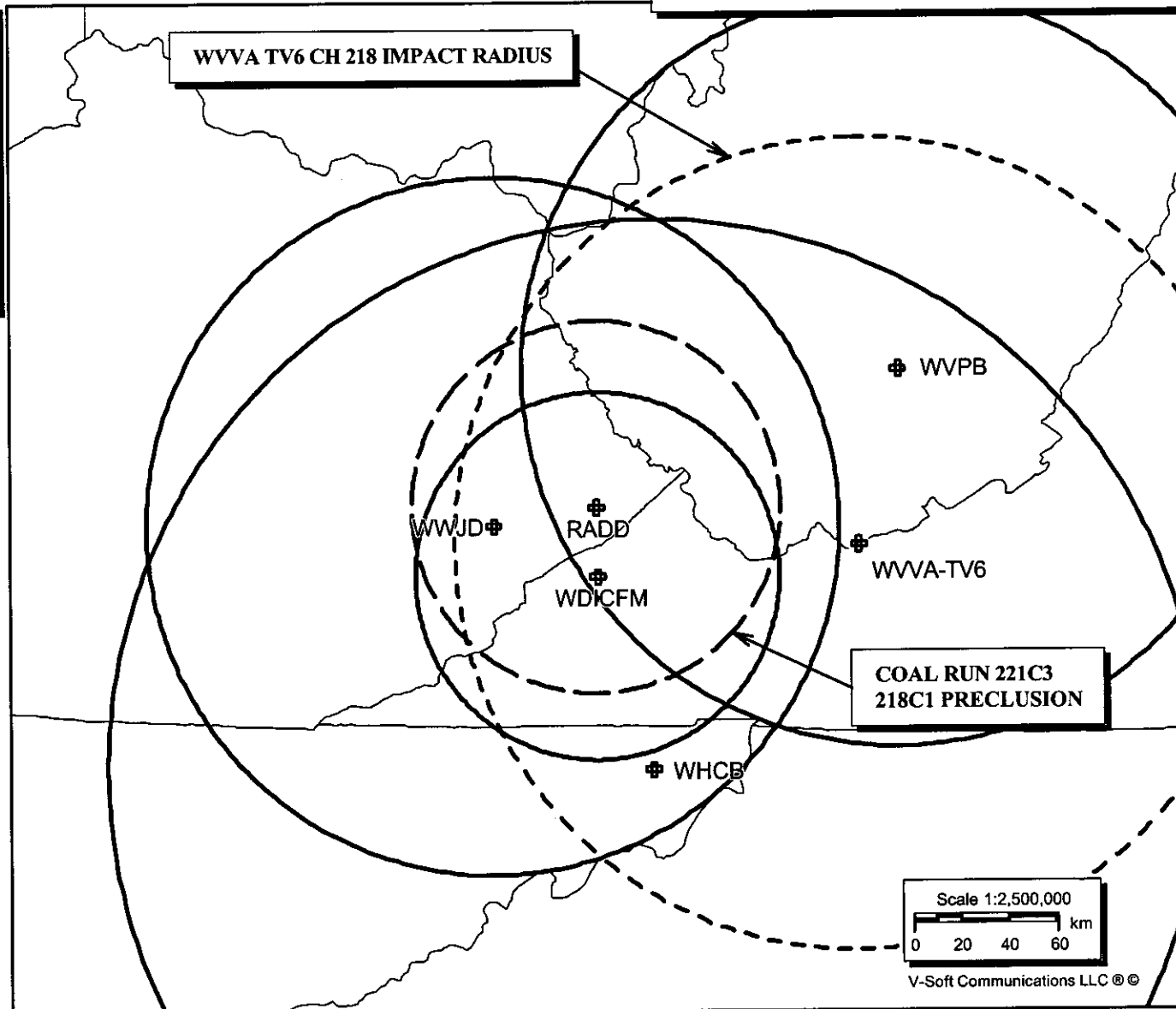
CHANNEL 218C1
PRECLUSION STUDY

NO NEW
PRECLUSION

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

WVVA TV6 CH 218 IMPACT RADIUS



COAL RUN 221C3
218C1 PRECLUSION

Scale 1:2,500,000
0 20 40 60 km

V-Soft Communications LLC ©

**CHANNEL 218C0
PRECLUSION STUDY**

NO NEW
PRECLUSION

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

WVVA TV6 CH 218 IMPACT RADIUS

WVPB

WWJD

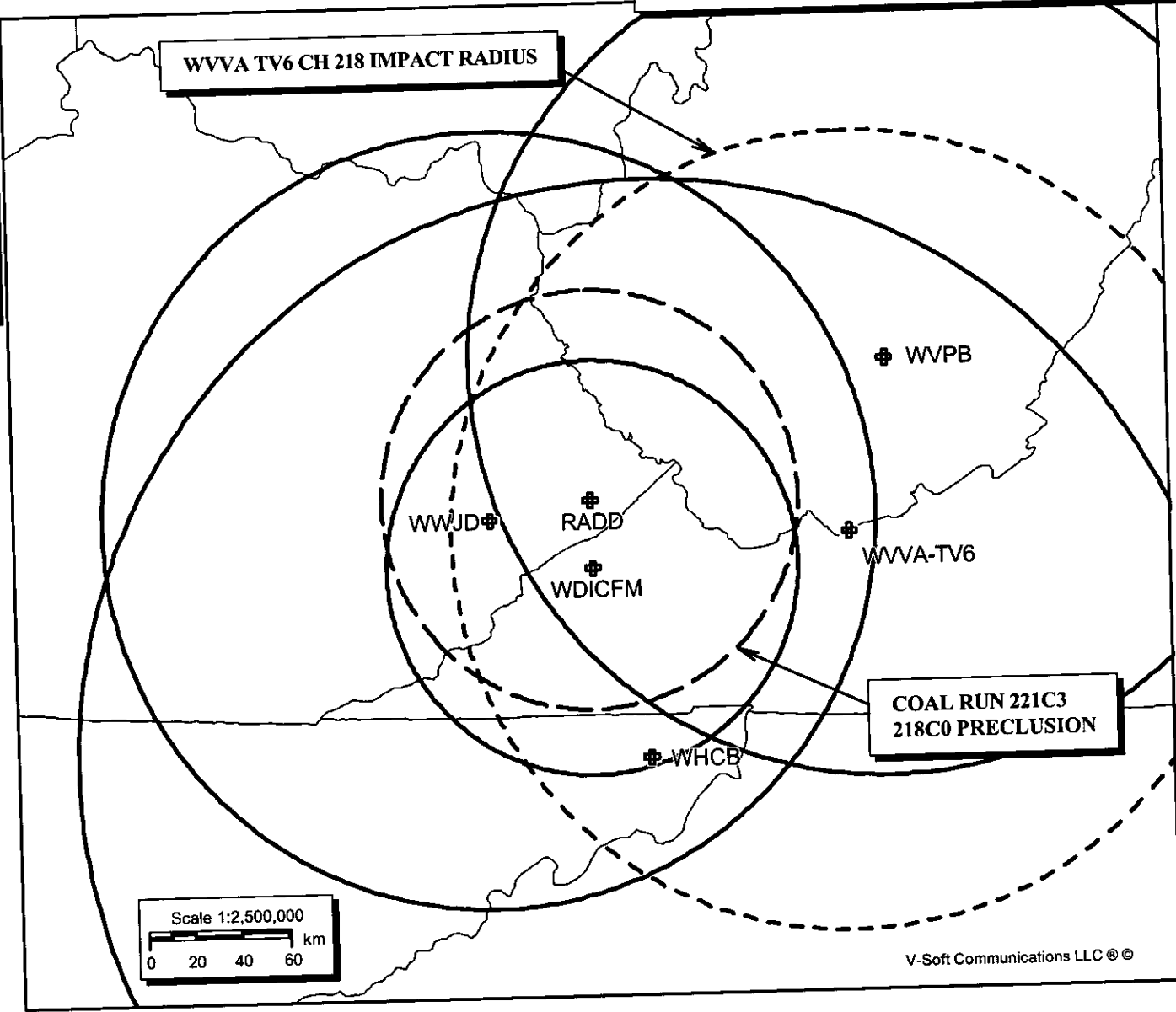
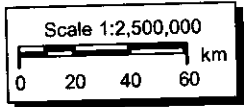
RADD

WDICFM

WVVA-TV6

WHCB

COAL RUN 221C3
218C0 PRECLUSION



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**CHANNEL 218C
PRECLUSION STUDY**

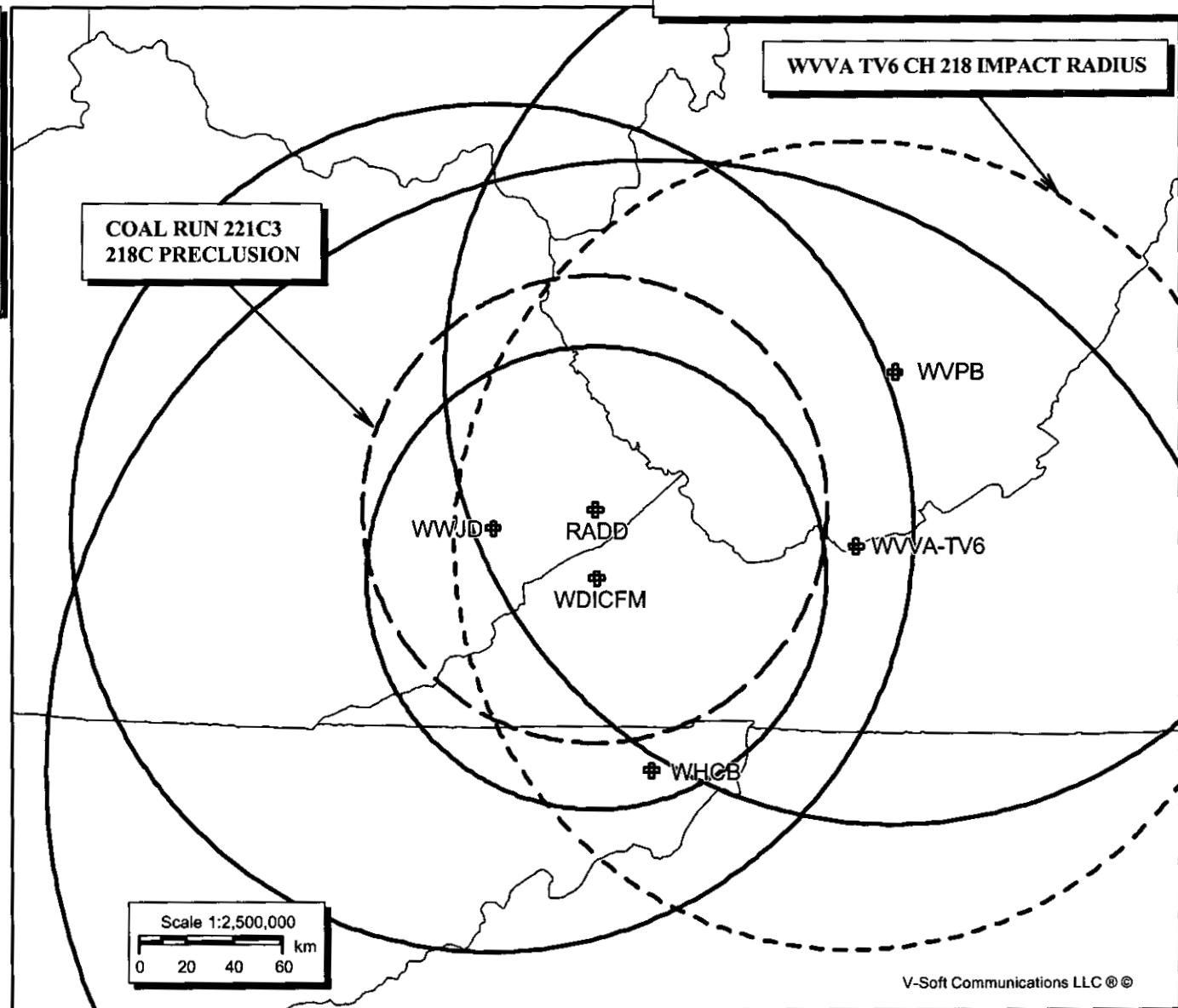
NO NEW
PRECLUSION

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

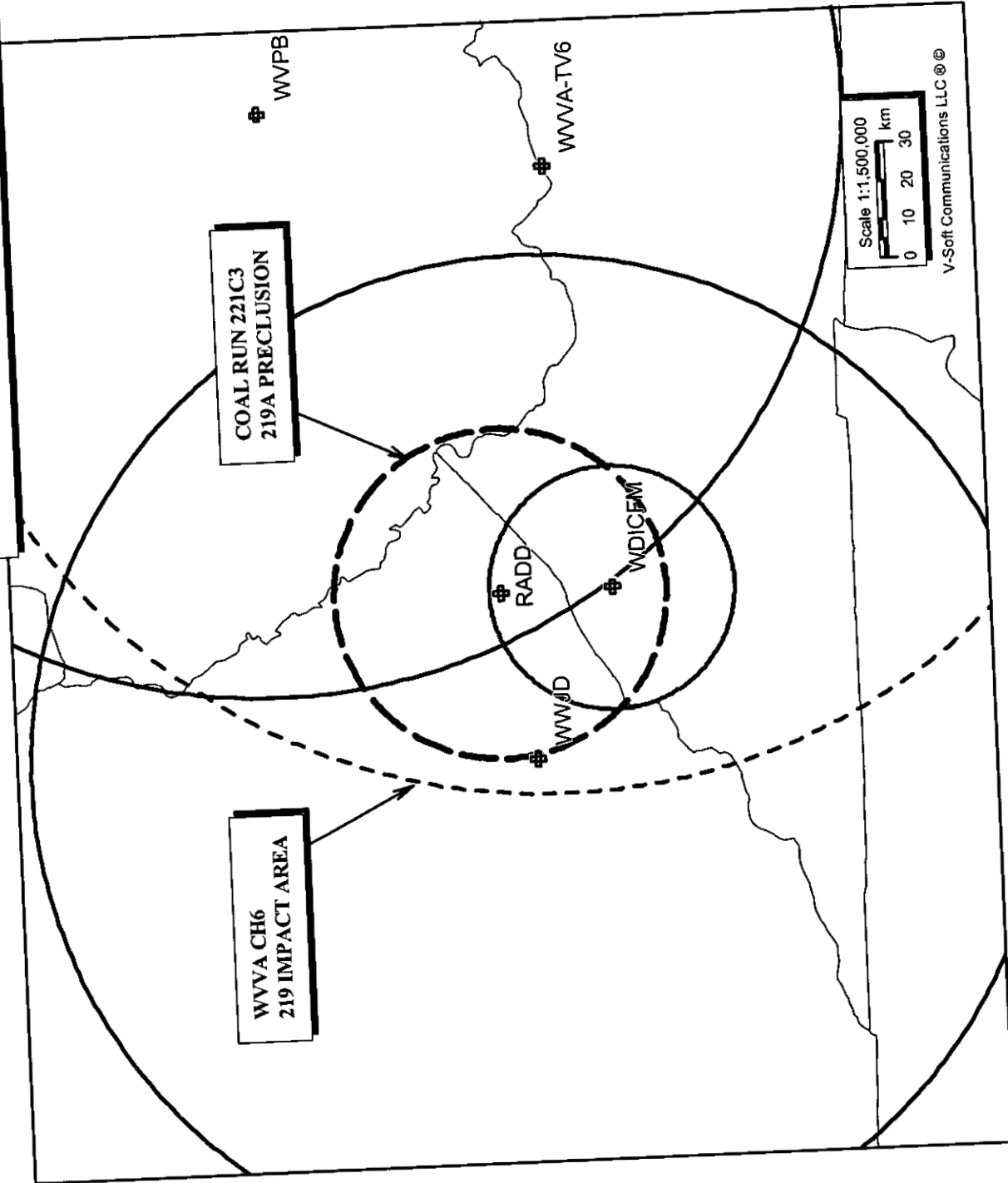
**COAL RUN 221C3
218C PRECLUSION**

WVVA TV6 CH 218 IMPACT RADIUS



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219A PRECLUSION

NO NEW
PRECLUSION AREA

COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

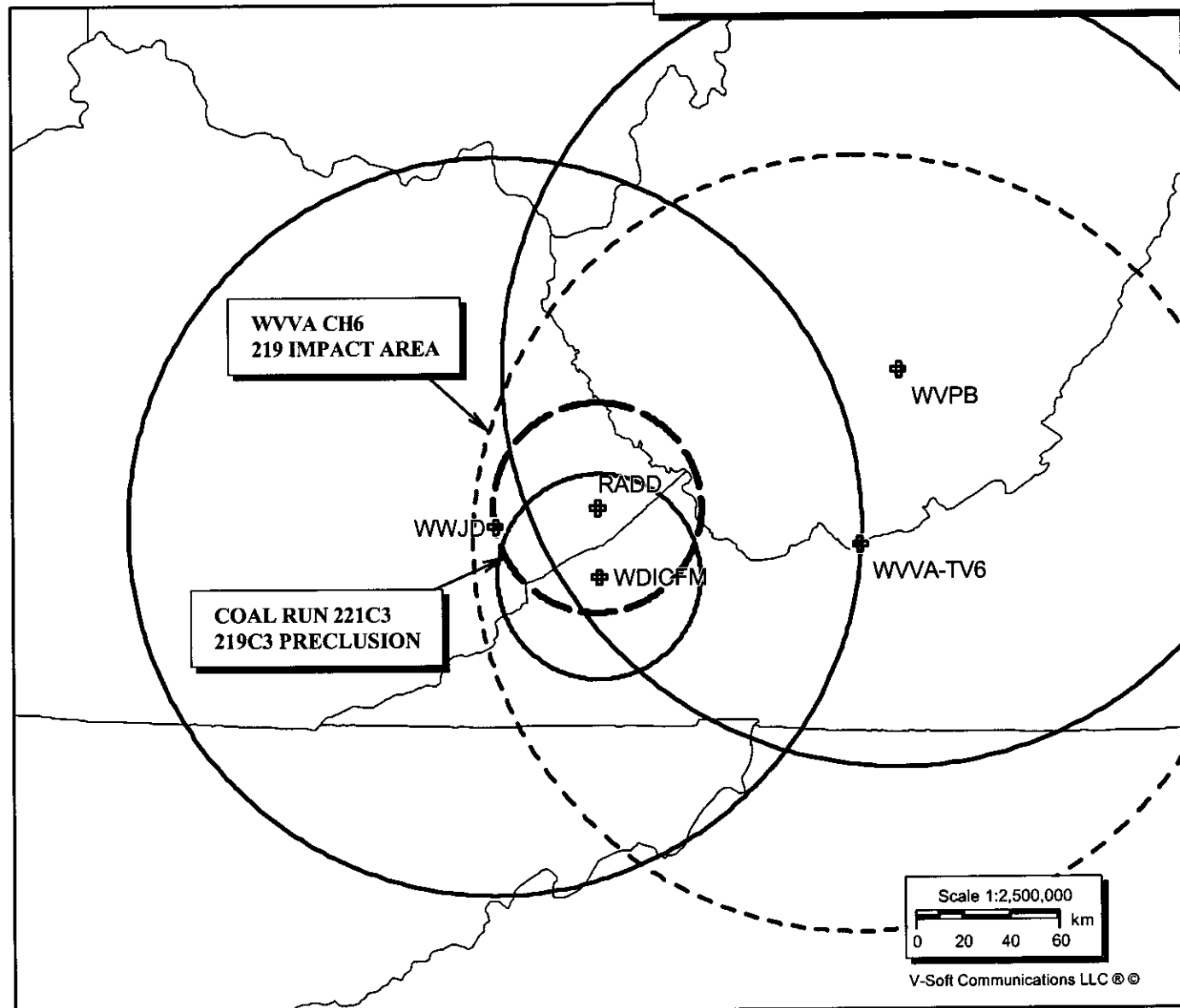
219C3 PRECLUSION

NO NEW
PRECLUSION AREA

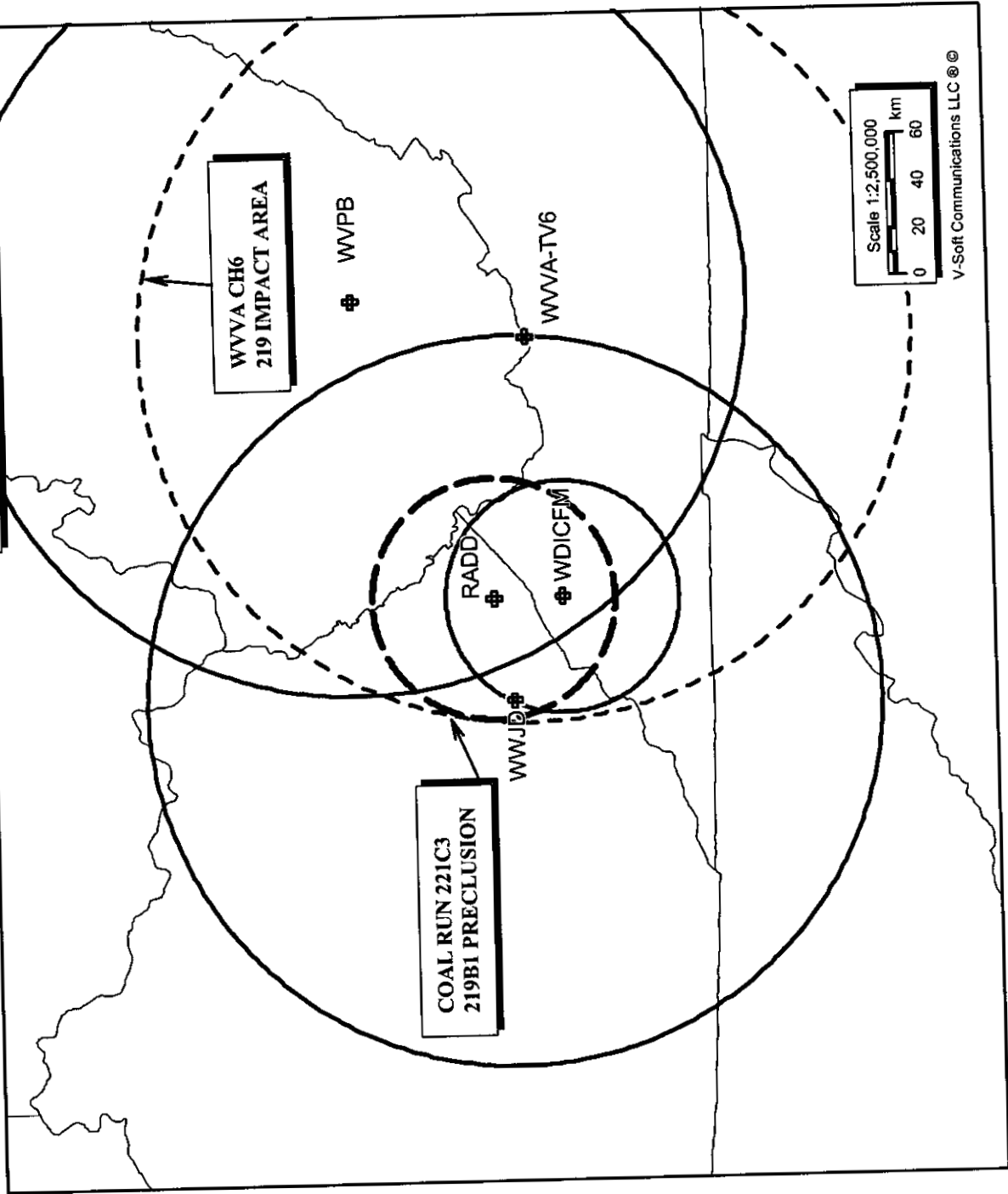
COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz



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219B1 PRECLUSION

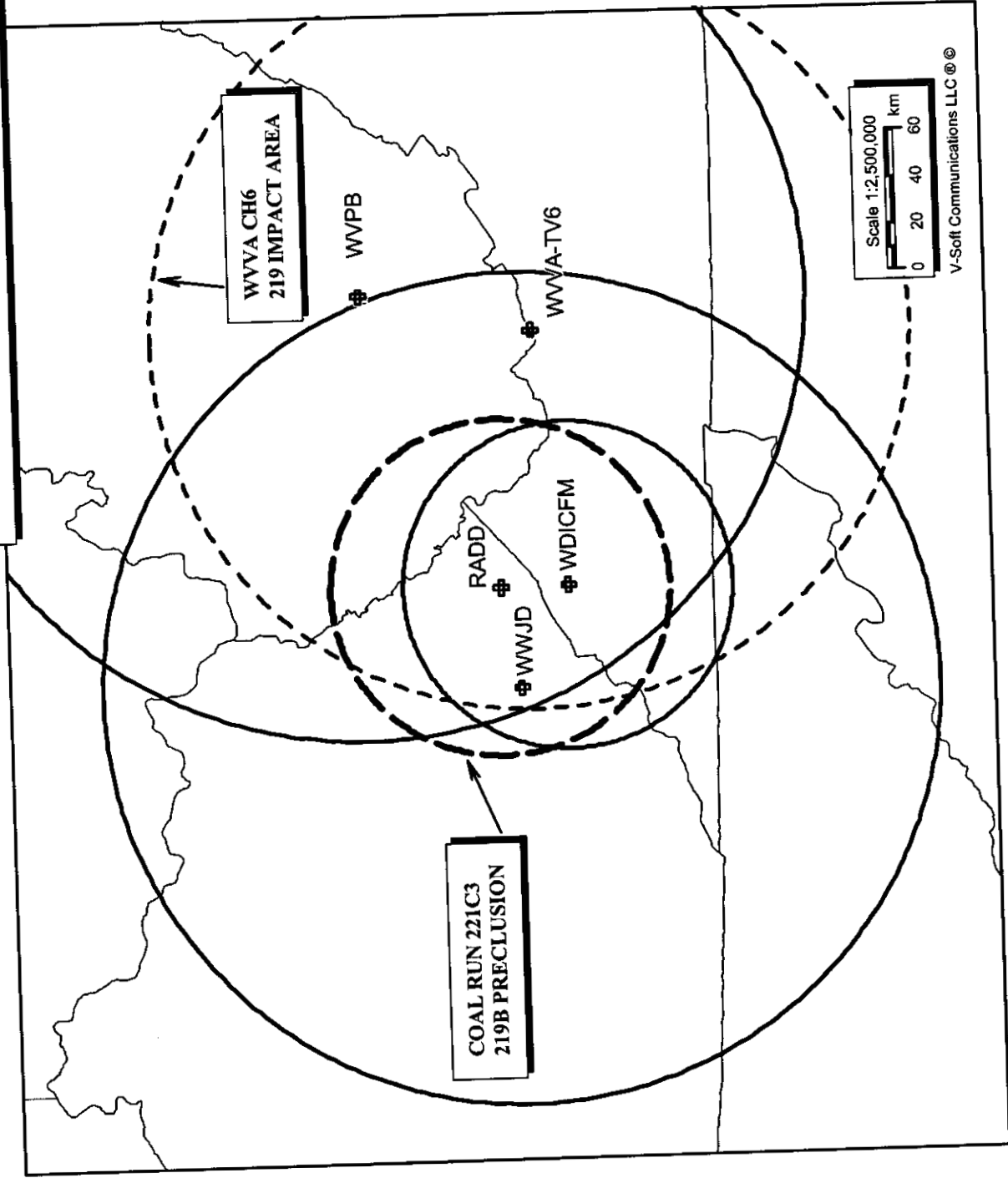
NO NEW
PRECLUSION AREA

COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

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219B PRECLUSION

NO NEW
PRECLUSION AREA

COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

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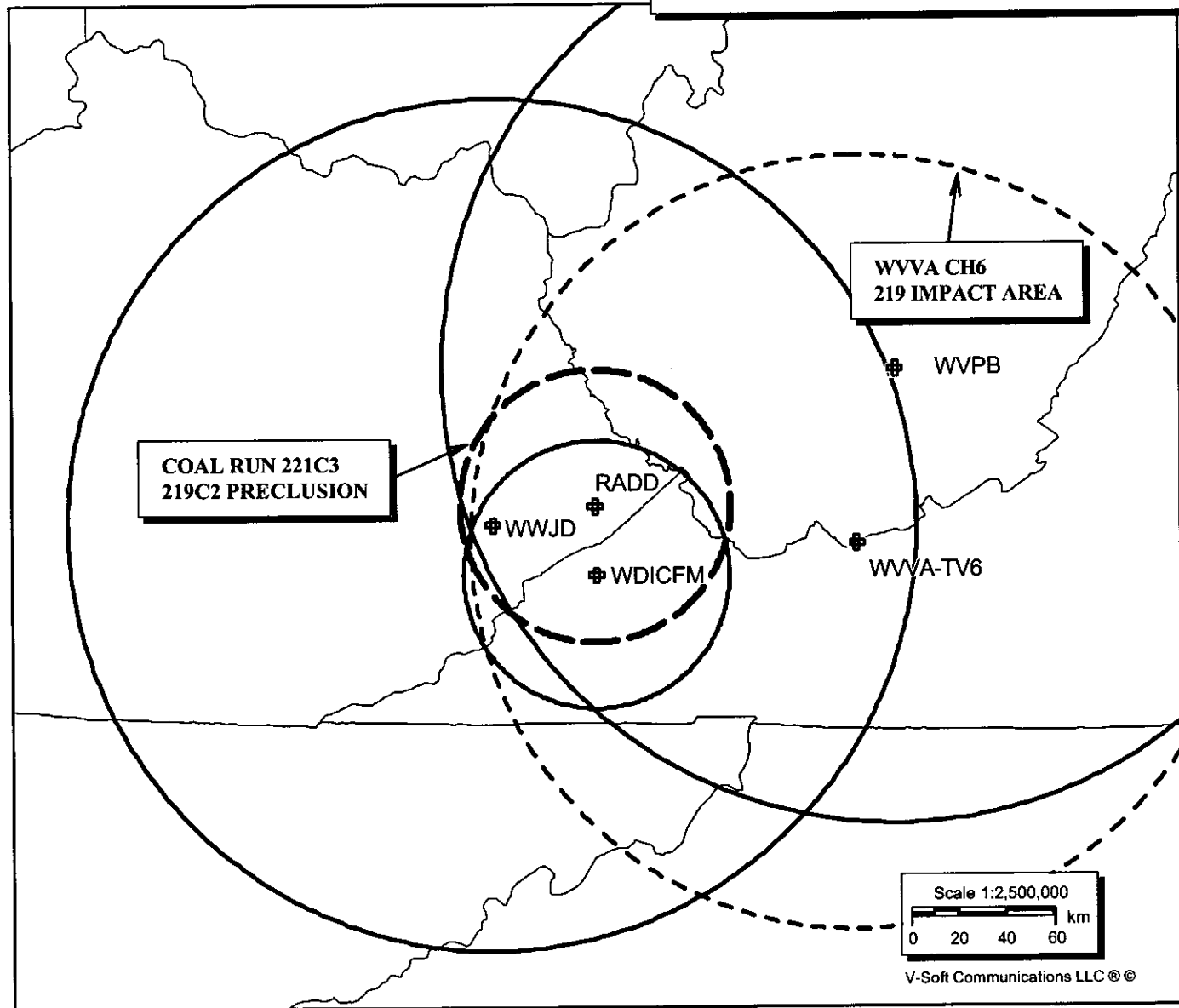
219C2 PRECLUSION

NO NEW
PRECLUSION AREA

COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz



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NO NEW
PRECLUSION AREA

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

**COAL RUN 221C3
219C1 PRECLUSION**

WVVA CH6
219 IMPACT AREA


WVPB 

+ **RADD**

WDICFM

WVVA-TV6

Scale 1:2,500,000



0 20 40 60 km

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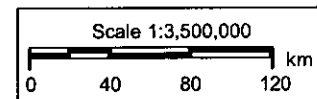
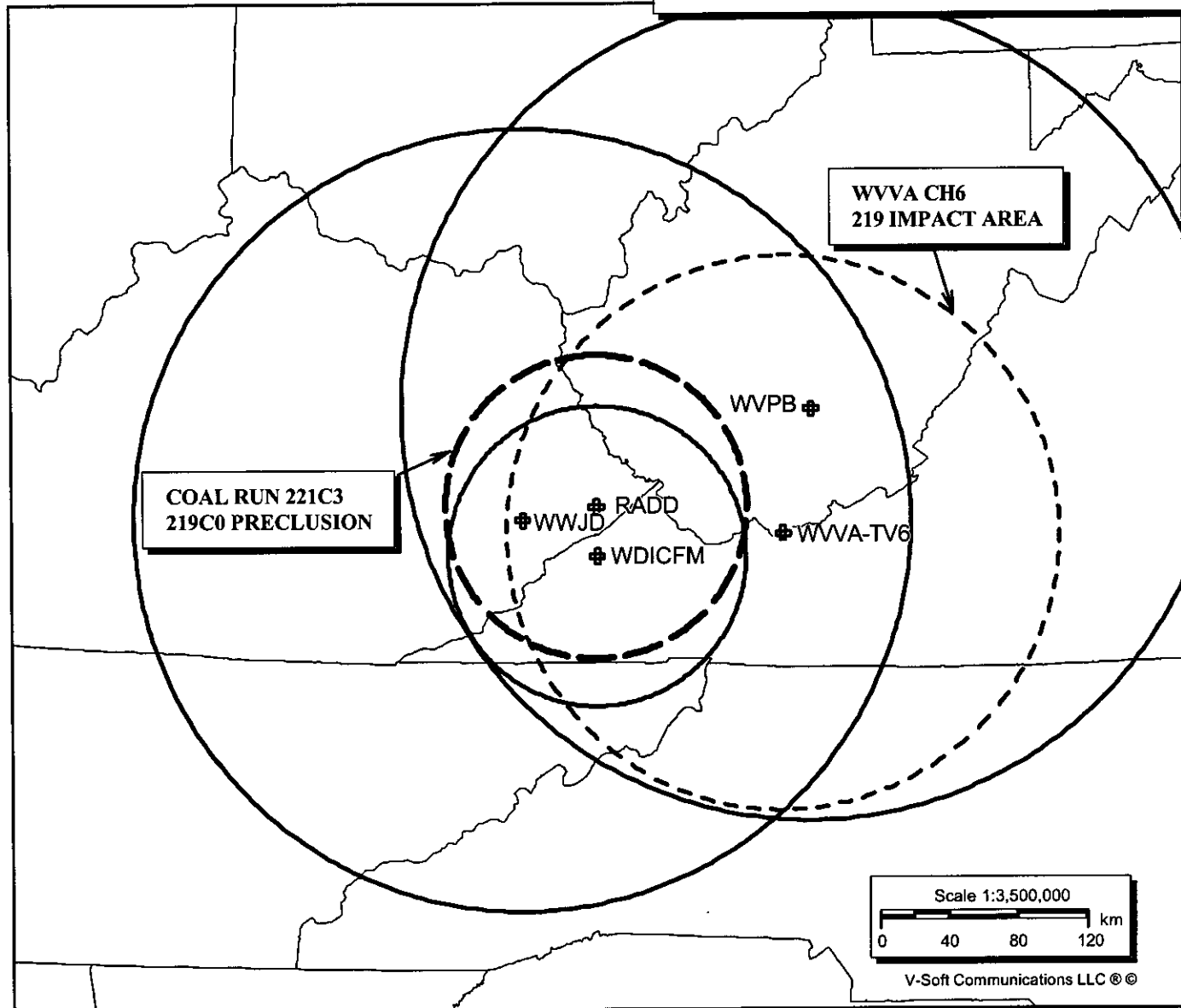
219C0 PRECLUSION

NO NEW
PRECLUSION AREA

COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz



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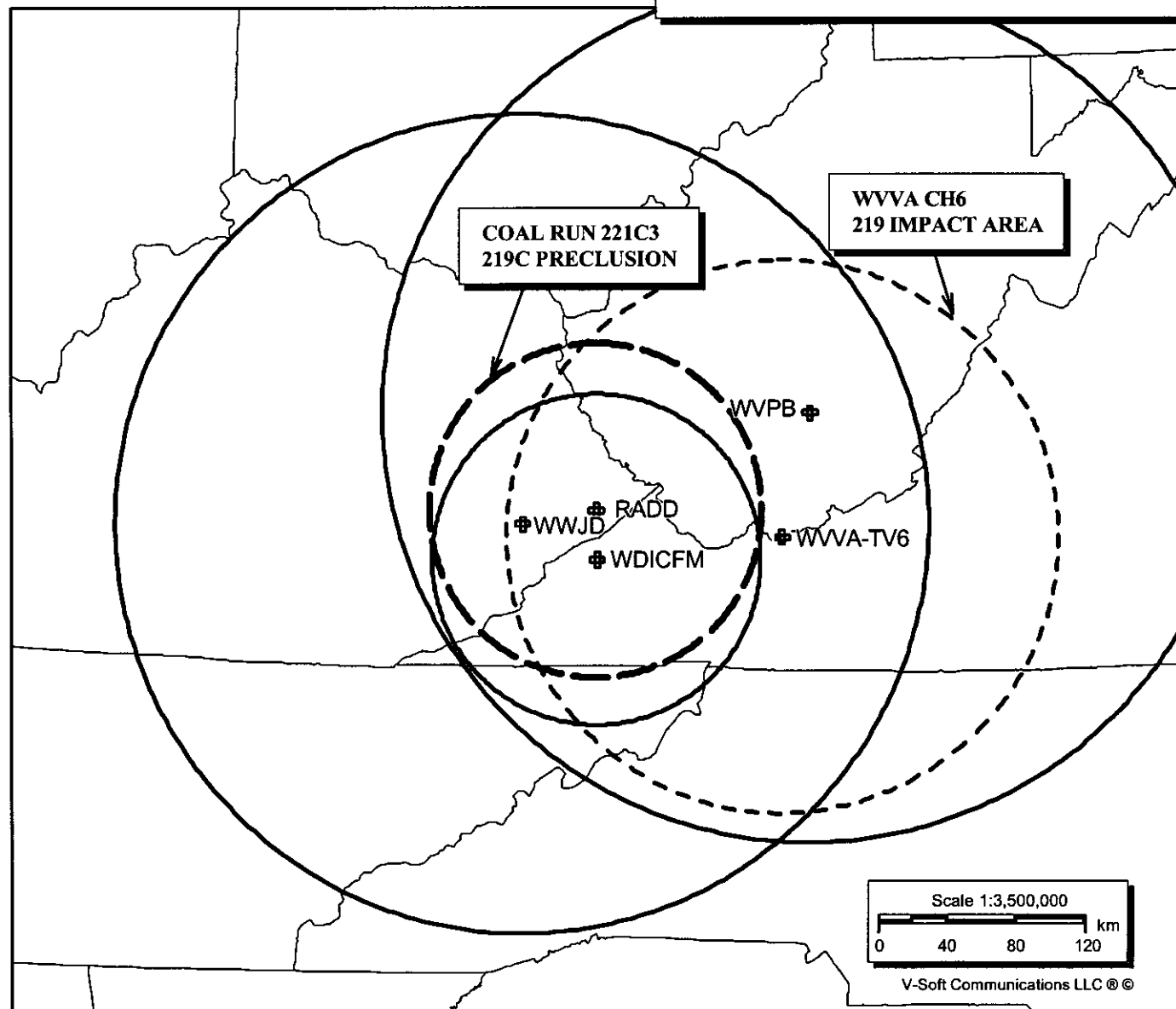
219C PRECLUSION

NO NEW
PRECLUSION AREA

COAL RUN 221C3

Latitude: 37-23-57 N
Longitude: 082-23-42 W

Channel: 221
Frequency: 92.1 MHz

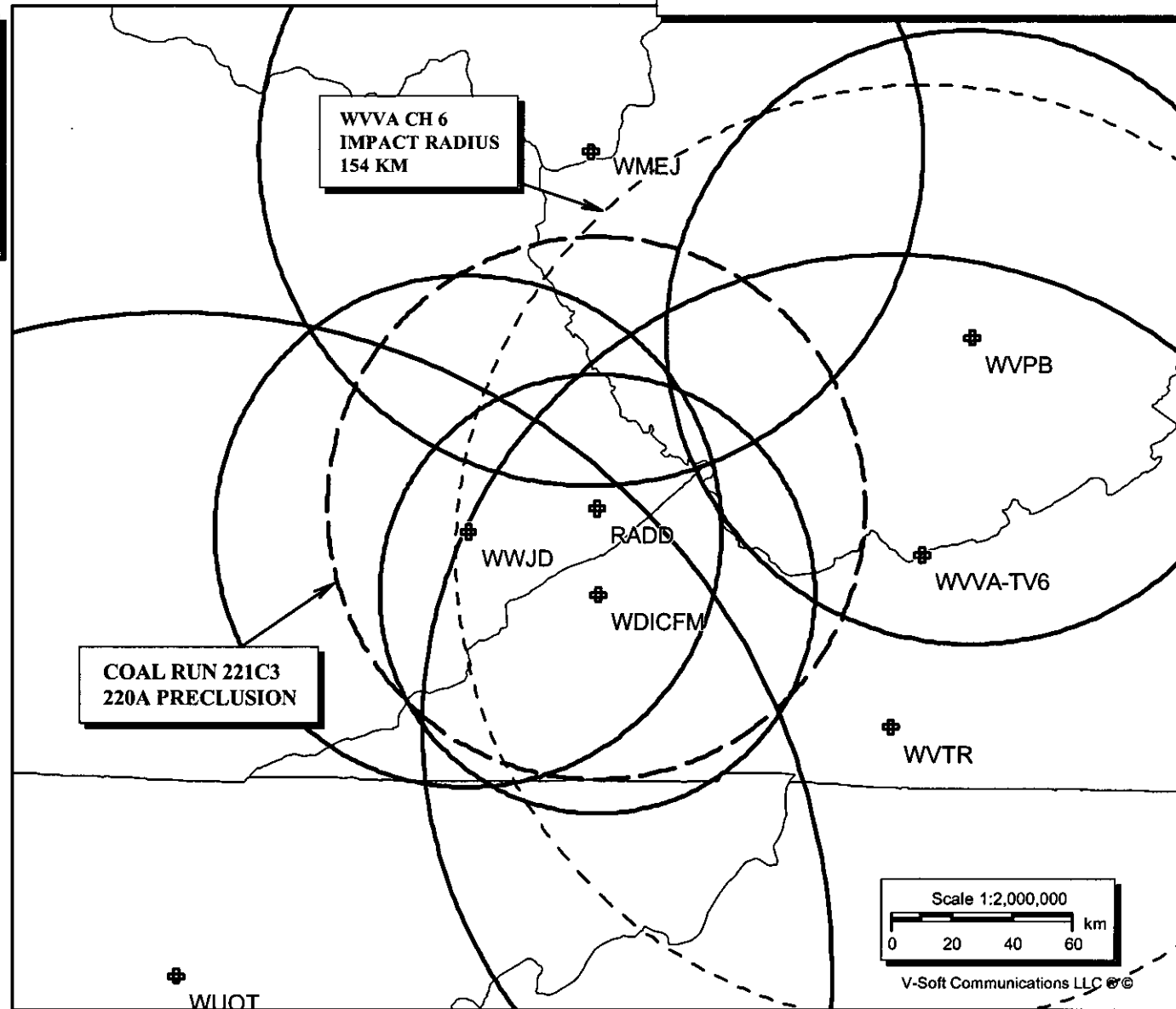


COAL RUN 220A
PRECLUSION
PLOT
NO NEW PRECLUSION

Latitude: 37-23-57 N
Longitude: 082-23-42 W
ERP: 25.00 kW
Channel: 221
Frequency: 92.1 MHz

WVVA CH 6
IMPACT RADIUS
154 KM

COAL RUN 221C3
220A PRECLUSION



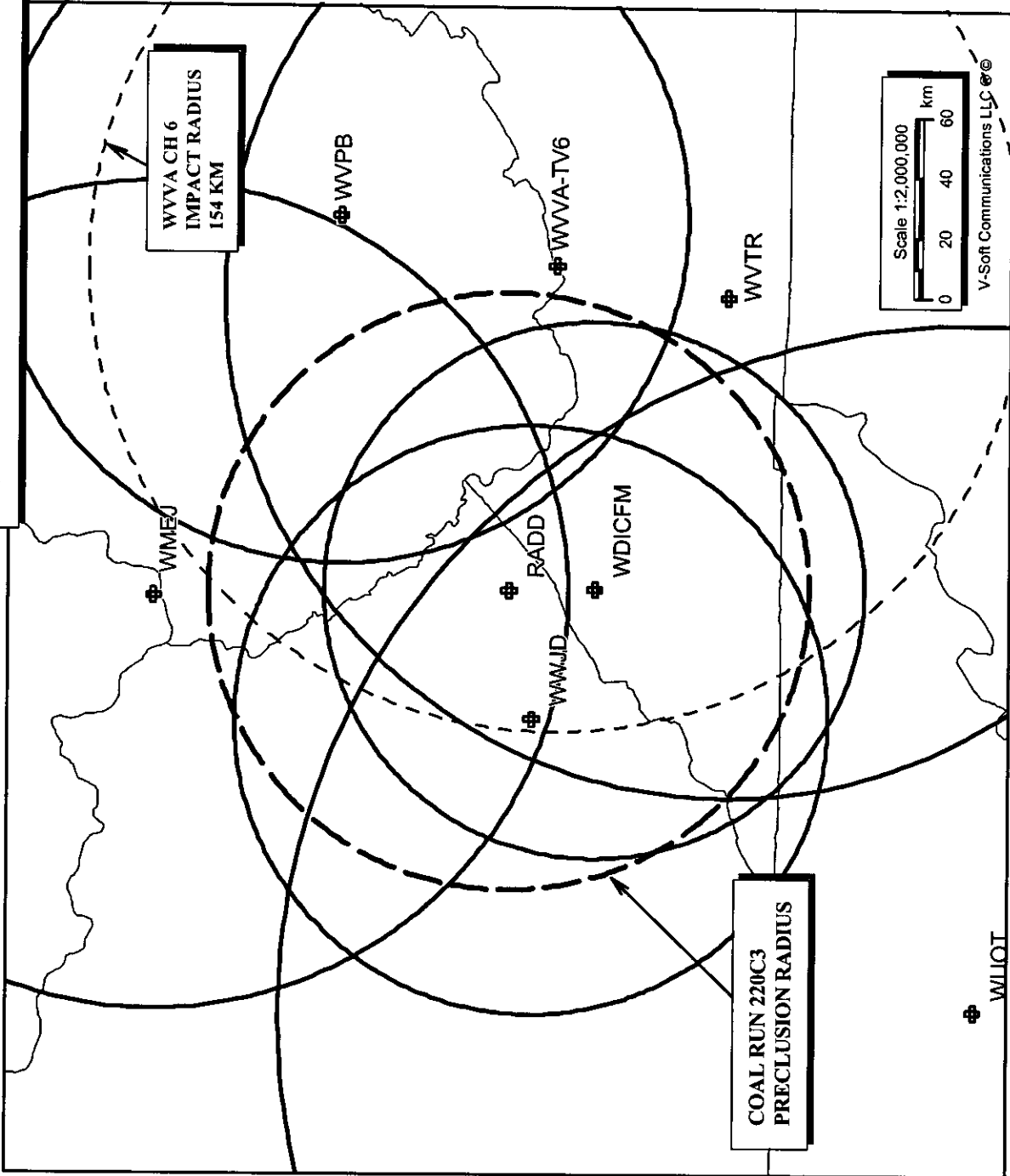
Scale 1:2,000,000
0 20 40 60 km

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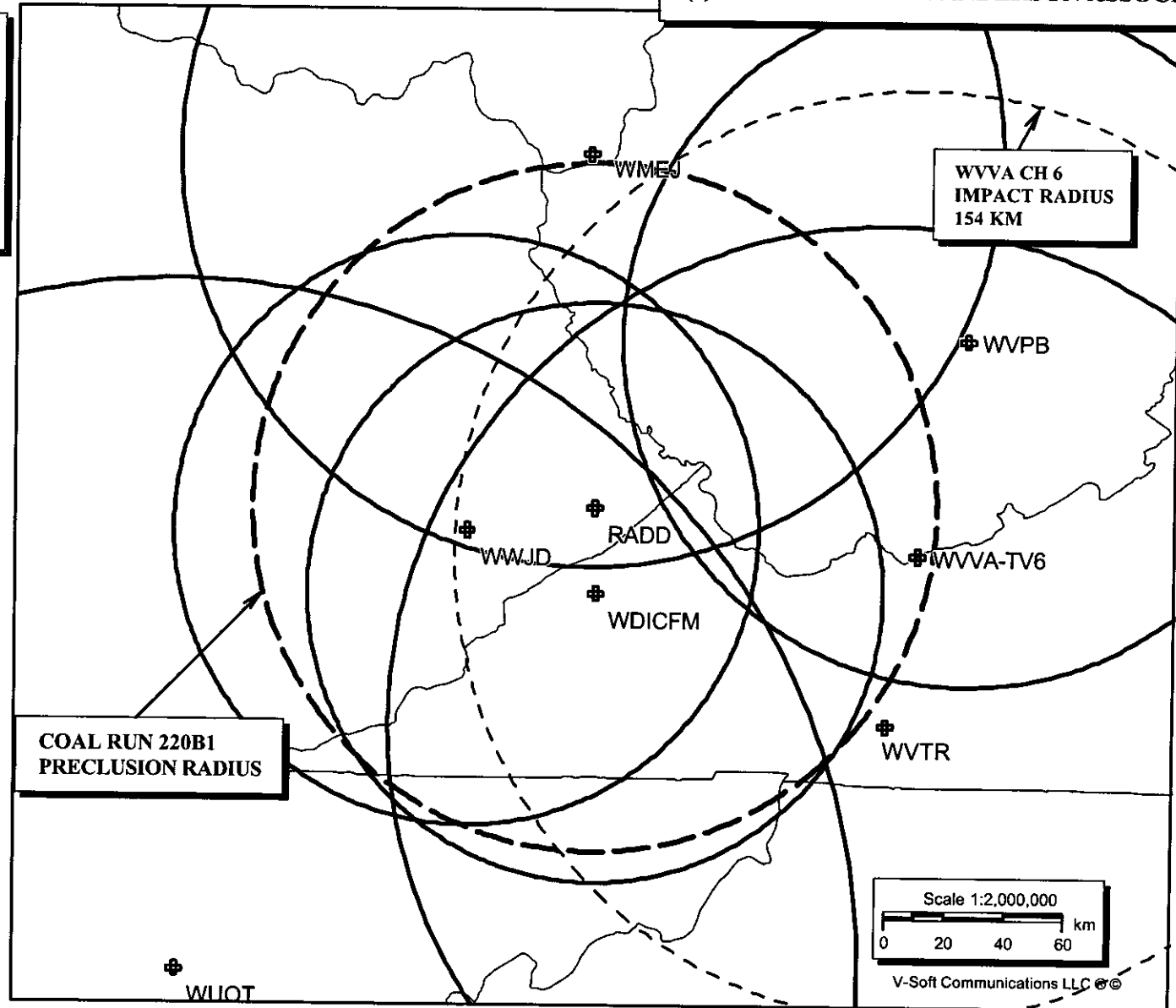
COAL RUN 220C3
PRECLUSION
PLOT
NO NEW PRECLUSION

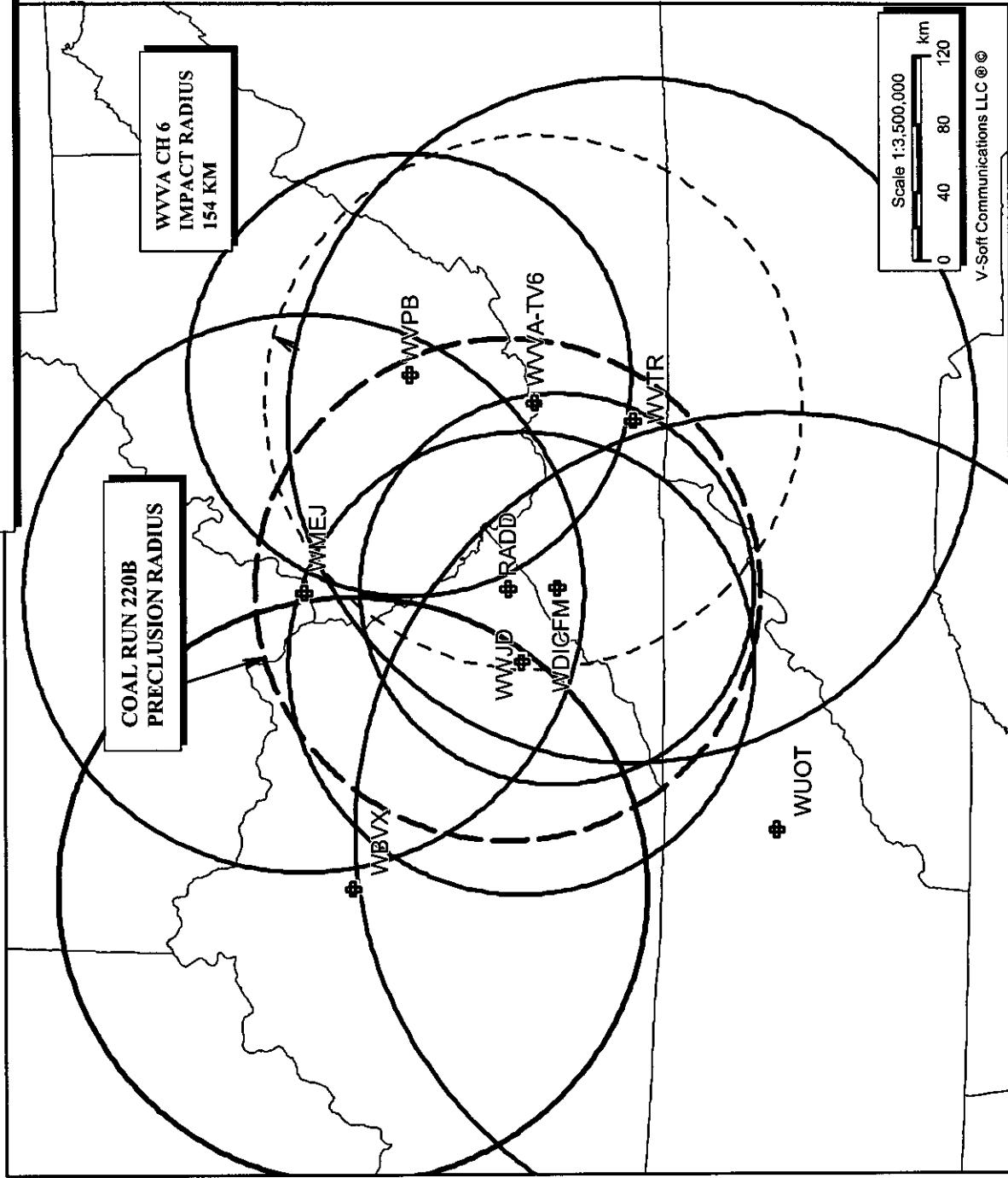
Latitude: 37-23-57 N
Longitude: 082-23-42 W
ERP: 25.00 kW
Channel: 221
Frequency: 92.1 MHz



COAL RUN 220B1
PRECLUSION
PLOT
NO NEW PRECLUSION

Latitude: 37-23-57 N
Longitude: 082-23-42 W
ERP: 25.00 kW
Channel: 221
Frequency: 92.1 MHz





COAL RUN 220B
PRECLUSION
PLOT
NO NEW PRECLUSION
Latitude: 37-23-57 N
Longitude: 082-23-42 W
ERP: 25.00 kW
Channel: 221
Frequency: 92.1 MHz

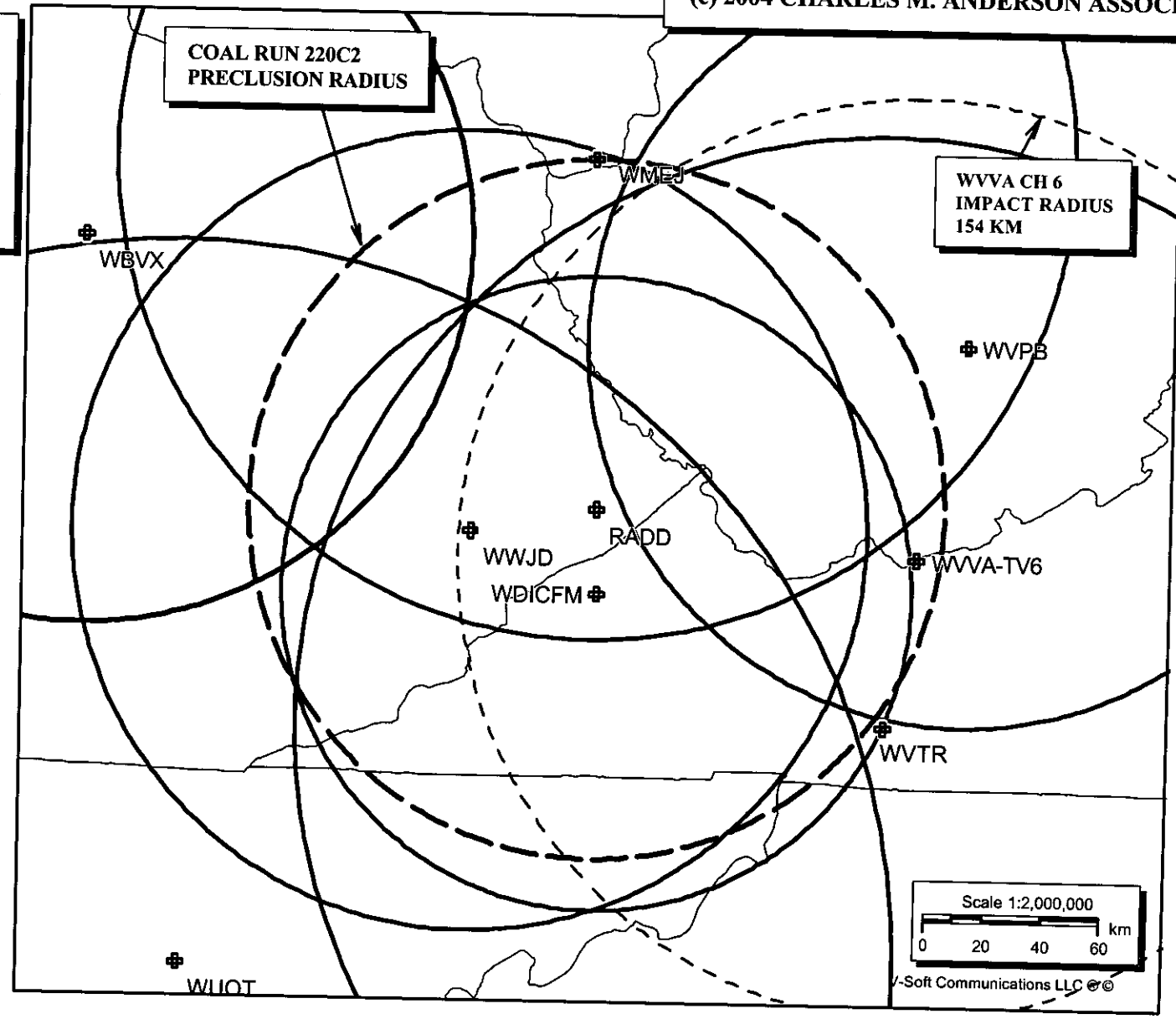
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**COAL RUN 220C2
PRECLUSION
PLOT
NO NEW PRECLUSION**

Latitude: 37-23-57 N
Longitude: 082-23-42 W
ERP: 25.00 kW
Channel: 221
Frequency: 92.1 MHz

**COAL RUN 220C2
PRECLUSION RADIUS**

**WVVA CH 6
IMPACT RADIUS
154 KM**



Scale 1:2,000,000
0 20 40 60 km
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